

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
FIFTY-EIGHTH LEGISLATURE

**TENTH LEGISLATIVE DAY
WEDNESDAY, JANUARY 18, 2006**

Senate Chamber

President Risch called the Senate to order at 11:30 a.m.

Roll call showed all members present except Senator Burtenshaw, absent and formally excused by the Chair; and Senators Andreason and Burkett, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Dana Nelson, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senator Burkett was recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of January 17, 2006, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Senator Andreason was recorded present at this order of business.

SJM 115 BY SCHROEDER

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, we recognize that federal agencies exchange and divest small or insignificant parcels of land; and

WHEREAS, almost sixty-four percent of Idaho is federal land; and

WHEREAS, there exists in the Congress of the United States a proposal to sell a significant portion of Idaho's federal land; and

WHEREAS, this federal land contributes to Idaho's economy in many ways including grazing, mining, timber production and recreation; and

WHEREAS, federal land in Idaho provides average Americans access to wild, natural areas; and

WHEREAS, Idahoans value outdoor experiences very highly and generations of Idahoans and other Americans have enjoyed this federal land through activities such as hunting, fishing, camping and hiking; and

WHEREAS, most Idahoans have found special places on federal land which give their lives meaning and enjoyment and the sale of a significant portion of this land would prohibit many from utilizing these places in the future.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we are opposed to any proposals which lead to a significant sale of federal land located in the state of Idaho.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

SJM 116

BY STENNETT

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE UNITED STATES SECRETARY OF THE INTERIOR, TO THE UNITED STATES SECRETARY OF AGRICULTURE, TO THE LEADERSHIP OF THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Congress has before it H.R.3855, legislation which would mandate the sale of fifteen percent of total federal lands held by the United States Forest Service and the United States Department of the Interior, with emphasis on lands in those states, like Idaho, where the United States owns more than fifteen percent of the total land area, to help pay for the devastation wreaked by hurricane Katrina;

WHEREAS, approximately 20,458,000 acres of land, over thirty-eight percent of the land in Idaho, is owned by the Forest Service, and approximately 11,836,000 acres, over twenty-two percent of the land in Idaho, is owned by the Bureau of Land Management;

WHEREAS, H.R.3855 would expose vast amounts of the Idaho lands owned by the federal government for sale to the highest bidder;

WHEREAS, the public lands in Idaho represent a cherished wilderness heritage for Idahoans who rely on the public lands for work and recreation, including outfitters and guides, miners, loggers, hunters, fishermen, campers, climbers, hikers, backpackers, mountain bikers, four wheelers, white water boaters, power boaters, cross county skiers and snowshoers, snowmobilers, berry pickers, picnickers, and lovers of the beauty, elegance and wildness of the public lands and the plants and animals that populate them, as well as those Idahoans who earn a livelihood by providing equipment and services to these public land users;

WHEREAS, Idahoans firmly believe that access to the public lands is a birthright, reflecting their independent spirit, not to be impaired.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request that Congress oppose any sale of the federal public lands in Idaho for the purported purpose of assisting the victims of hurricane Katrina or any other alleged purpose.

BE IT FURTHER RESOLVED by the members of the Second Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge that any future sale of the federal public lands in Idaho that may be authorized by Congress, for whatever purpose, require the participation of the Idaho people and be conditioned upon continued access to the remaining federal and state public lands.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the United States Secretary of Agriculture, to the leadership of the Senate and House of Representatives of the United States in Congress assembled, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

SJM 115 and **SJM 116** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

January 18, 2006

The JUDICIARY AND RULES Committee reports that **S 1257**, **S 1258**, **S 1259**, **S 1260**, **S 1261**, **S 1262**, **S 1263**, **SJM 114**, and **SJR 103** have been correctly printed.

DARRINGTON, Chairman

S 1257, **S 1260**, **S 1261**, **S 1262**, and **SJR 103** were referred to the State Affairs Committee.

S 1258 and **S 1259** were referred to the Resources and Environment Committee.

S 1263 was referred to the Finance Committee.

On request by Senator McKenzie, granted by unanimous consent, **SJM 114** was referred to the State Affairs Committee.

January 17, 2006

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Charles Hedemark to the Idaho Energy Resource Authority, term to expire June 30, 2009.

BURTENSHAW, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

January 18, 2006

The FINANCE Committee reports out **S 1263** with the recommendation that it do pass.

CAMERON, Chairman

S 1263 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President announced the Resources and Environment Committee report relative to the Gubernatorial appointment of Anthony R. McDermott was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Broadsword, seconded by Senator Stennett, the Gubernatorial appointment of Anthony R. McDermott as a member of the Idaho Fish and Game Commission was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that **SJM 113** was before the Senate for final consideration.

Moved by Senator Davis, seconded by Senator Burkett, that **SJM 113** be adopted. The question being, "Shall the memorial be adopted?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Cameron, Coiner, Compton, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Burtenshaw, Hill. Total - 2.

Total - 35.

Whereupon the President declared **SJM 113** adopted, title was approved, and the memorial ordered transmitted to the House.

The Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,
House Petitions, Resolutions, and Memorials**

S 1264

BY TRANSPORTATION COMMITTEE
AN ACT

RELATING TO PERMIT REQUIREMENTS FOR TRANSPORTERS OF HAZARDOUS WASTES; AMENDING SECTION 49-2202, IDAHO CODE, TO PROVIDE THAT VENDORS SELLING HAZARDOUS WASTE PERMITS SHALL BE REMUNERATED AS DETERMINED BY CONTRACT BETWEEN THE VENDOR AND THE IDAHO TRANSPORTATION DEPARTMENT AND TO MAKE TECHNICAL CORRECTIONS.

S 1265

BY TRANSPORTATION COMMITTEE
AN ACT

RELATING TO WRITTEN REPORTS OF MOTOR VEHICLE ACCIDENTS; AMENDING SECTION 49-117, IDAHO CODE, TO REDEFINE "PERSONAL INFORMATION" TO PROVIDE THAT IT MAY INCLUDE INFORMATION ON VEHICULAR ACCIDENTS; AND AMENDING SECTION 49-1306, IDAHO CODE, TO PROVIDE REFERENCE TO PERSONAL INFORMATION IN WRITTEN REPORTS OF ACCIDENTS WHICH IS PRIVILEGED OR IS TO BE HELD CONFIDENTIAL.

S 1266

BY TRANSPORTATION COMMITTEE
AN ACT

RELATING TO RECREATIONAL TRESPASS AND LIMITATION OF LANDHOLDER LIABILITY; AMENDING SECTION 36-1604, IDAHO CODE, TO PROVIDE THAT THE LIMITATION OF LIABILITY OF A LANDOWNER EXTENDS TO FREE PUBLIC USE OF PRIVATELY-OWNED AIRSTRIPS, TO DEFINE "AIRSTRIPS," TO REVISE THE DEFINITION OF "LAND" TO INCLUDE AIRSTRIPS AND TO REVISE THE DEFINITION OF "RECREATIONAL PURPOSES" TO INCLUDE THE FLYING OF AIRCRAFT.

S 1267

BY TRANSPORTATION COMMITTEE
AN ACT

RELATING TO MOTOR FUELS; AMENDING CHAPTER 2, TITLE 71, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 71-241A, IDAHO CODE, TO PROVIDE FOR RENEWABLE FUEL STANDARDS, TO DEFINE A TERM, TO PROVIDE AN ETHANOL BLENDED FUEL STANDARD, TO PROVIDE AN EXEMPTION TO THE ETHANOL BLENDED FUEL STANDARDS AND TO PROVIDE APPLICATION TO FEDERALLY REGULATED STORAGE TANKS IN CERTAIN COUNTIES FOR A CERTAIN PERIOD.

S 1268

**BY COMMERCE AND HUMAN RESOURCES
COMMITTEE**
AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1352, IDAHO CODE, TO REVISE ELIGIBILITY PROVISIONS FOR DISABILITY RETIREMENT.

S 1269

**BY COMMERCE AND HUMAN RESOURCES
COMMITTEE**
AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; REPEALING SECTION 59-1335, IDAHO CODE, RELATING TO ACCUMULATED VOLUNTARY CONTRIBUTIONS; AND PROVIDING FOR THE DISTRIBUTION OF FUNDS.

S 1270

**BY COMMERCE AND HUMAN RESOURCES
COMMITTEE**
AN ACT

RELATING TO UNUSED SICK LEAVE FUNDS ADMINISTERED BY THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 33-1228, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE SEVERANCE ALLOWANCE AT RETIREMENT; AND AMENDING SECTION 67-5339, IDAHO CODE, TO CLARIFY THAT AMOUNTS SHALL BE DETERMINED BY THE RETIREMENT BOARD, TO PROVIDE THAT AMOUNTS SHALL BE USED TO PAY PREMIUMS SUBJECT TO APPLICABLE FEDERAL TAX LIMITS FOR CERTAIN INSURANCE PROGRAMS AND TO MAKE A TECHNICAL CORRECTION.

S 1271

**BY COMMERCE AND HUMAN RESOURCES
COMMITTEE**
AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1356, IDAHO CODE, TO REVISE TERMINOLOGY AND TO CLARIFY THAT SUSPENDED BENEFITS ARE CONSIDERED RETIREE BENEFITS IN THE EVENT A DEATH BENEFIT BECOMES PAYABLE.

S 1272
BY COMMERCE AND HUMAN RESOURCES
COMMITTEE

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1359, IDAHO CODE, TO FURTHER LIMIT AUTOMATIC SEPARATION BENEFITS; AND DECLARING AN EMERGENCY.

S 1273
BY BRANDT

AN ACT

RELATING TO EMINENT DOMAIN; AMENDING CHAPTER 7, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-723, IDAHO CODE, TO PROVIDE THAT ALL ISSUES OF FACT IN CONDEMNATION CASES, EXCEPT FACTS PREREQUISITE TO TAKING AS PROVIDED IN SECTION 7-704, IDAHO CODE, SHALL BE DETERMINED BY A JURY UPON THE REQUEST OF EITHER PARTY.

S 1264, S 1265, S 1266, S 1267, S 1268, S 1269, S 1270, S 1271, S 1272, and S 1273 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:30 p.m. until the hour of 11:30 a.m., Thursday, January 19, 2006.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary